

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

STATE OF NEW YORK, et al.,

Plaintiffs,

v.

DONALD J. TRUMP, *in his official capacity as President of the United States*, et al.,

Defendants.

17-CV-5228 (NGG) (JO)

PLAINTIFFS' NOTICE OF SUPPLEMENTAL AUTHORITY

Plaintiffs respectfully advise the Court of a Federal Vacancies Reform Act (“FVRA”) order issued this past Friday in *Bullock v. U.S. Bureau of Land Management*, No. 4:20-cv-00062-BMM (D. Mont. Sept. 25, 2020) (Ex. 1). In *Bullock*, the United States District Court for the District of Montana granted summary judgment for the plaintiffs on their claim that William Perry Pendley has been unlawfully serving as the Acting Director of the Bureau of Land Management (“BLM”) for over 400 days in violation of the FVRA and Administrative Procedure Act (“APA”). Slip op. 29-30, 34. In addition to granting declaratory relief, the court enjoined Pendley from exercising the authority of the BLM director. *Id.* at 34. The court further found that any “function or duty” of the BLM Director that Pendley performed “would have no force and effect” under the plain terms of the FVRA and must also be “set aside as arbitrary and capricious” under the APA, and ordered further briefing on what particular acts of Pendley “should be set aside” under the two statutes. *Id.*

DATED: September 28, 2020

Respectfully submitted,

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